IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

TUESDAY, THE 3RD APRIL 2007 / 13TH CHAITHRA 1930

WP(C).No. 3393 of 2004(S)

OA.253/2003 of CENTRAL ADMINISTRATIVE TRIBUNAL,ERNAKULAM BENCH
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PETITIONER:

N. RADHAKRISHNAN, AGED 40 YEARS,
S/O. SHRI.O.P. NANUKUTTAN NAIR, JUNIOR ACCOUNTANT
OFFICE OF THE DIRECTOR OF ACCOUNTS (POSTAL),
THIRUVANANTHAPURAM, RESIDING AT KEEZHEVEEDU,
THIRUVALLAM P.O., THIRUVANANTHAPURAM-695 027.

BY ADV. SRI.M.A.SHAFIK

RESPONDENTS:
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1. S. JAYAKUMAR, LOWER DIVISION CLERK,
OFFICE OF THE DIRECTOR OF ACCOUNTS (POSTAL)
THIRUVANANTHAPURAM.

2. UNION OF INDIA REPRESENTED BY ITS
SECRETARY, DEPARTMENT OF POST, NEW DELHI.

3. THE CHIEF POST MASTER GENERAL,
KERALA CIRCLE, THIRUVANANTHAPURAM.

4. THE DIRECTOR, OFFICE OF THE DIRECTOR
OF ACCOUNTS (POSTAL), KERALA CIRCLE,
THIRUVANANTHAPURAM.

5. THE DEPUTY DIRECTOR, OFFICE OF THE
DIRECTOR OF ACCOUNTS (POSTAL),
KERALA CIRCLE, THIRUVANANTHAPURAM.

BY ADV. SRI.S.KRISHNAMOORTHY, ADDL.CGSC
SRI.JOHNSON GOMEZ FOR R1
SMT. T.D.RAJALAKSHMI SCGSC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 03/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE ORIGINAL APPLICATION NO.253/2003 FILED ON 26.3.2003 BY THE FIRST RESPONDENT BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH ALONG WITH ITS ANNEXURES.

EXT.P2: COPY OF THE REPLY STATEMENT FILED ON 22.5.2003 BY THE RESPONDENTS 1 TO 4 IN ORIGINAL APPLICATION NO.253/2003 BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH.

EXT.P3: COPY OF THE REPLY STATEMENT DATED 15.6.2003 FILED BY THIS PETITIONER(5TH RESPONDENT IN ORIGINAL APPLICATION NO.253/2003).

EXT.P4: COPY OF THE REJOINDER DATED 18.6.2003 FILED BY THIS FIRST RESPONDENT HEREIN (APPLICANT IN ORIGINAL APPLICATION NO.253/2003).

EXT.P5: COPY OF THE ORDER DATED 11.11.2003 OF THE CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH IN ORIGINAL APPLICATION NO.253/2003.

RESPONDENT'S EXHIBITS:

EXT.R1(a): COPY OF THE OFFICE ORDER NO.71/ADM I/E.I/69 DATED 6.12.1988 ISSUED BY THE FIFTH RESPONDENT.

EXT.R2(b): COPY OF THE CIRCULAR NO.1335/ADM/SPORTS/HO DATED 9.1.1986 ISSUED BY THE FIFTH RESPONDENT.

EXT.R4: COPY OF THE GRADATION LIST OF L.D.CLERKS.

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BKN // TRUE COPY//

P.A. TO JUDGE.

J.B.KOSHY & T.R.RAMACHANDRAN NAIR, JJ.

W.P.(C).NO. 3393 OF 2004

Dated this the 3rd day of April, 2007.

JUDGMENT

Koshy, J.

Petitioner and first respondent in the Writ Petition were recruited under the Sports Quota in relaxation to the normal recruitment rule as Lower Division Clerk and were allotted to the office of the 5th respondent herein. They joined the department on 31.8.1984. Both of them were not having the prescribed typing test before their recruitment as Lower Division Clerks. But the petitioner passed the typing test on 25.2.1986 where as the first respondent herein passed the typing test only on 18.5.1987. It is the case of the petitioner that he was considered senior. He was promoted in the vacancy in the year 2003. Then first respondent challenged it before the Central Administrative Tribunal. The case before the Central Administrative Tribunal was that respondent was considered as senior. In view of Annexure A5, by which those who pass the test after two years will lose seniority. Respondent relied on Annexure A11, wherein Annexure A5 was withdrawn and decided that seniority will be taken up according to advise as well as confirmation. However, it is the case of petitioner that in paragraph 3 in A11 itself, it is stated that the

seniority as on the date of Annexure A11 will not be affected. Department has filed a seniority list before this court. On going through the order we are of the view that these facts were not considered by the Tribunal. Effect of A5, A11, who was considered as senior, when A11 was passed etc. were not considered. Therefore, Ext.P4 is set aside and case is remanded back to the Tribunal to reconsider the matter.

The Writ Petition is disposed of accordingly.

J.B.KOSHY, JUDGE.

T.R.RAMACHANDRAN NAIR, JUDGE.

bkn